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8	BEFORE THE BOARD OF REGISTERED NURSING
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
10	STATE OF CALIFORNIA
11	In the Matter of the Accusation Against: Case No. 2010-124
12	BARBARA JIMENEZ DURAM
13	FERRERIA, A.K.A. BARBARA JIMENEZ FERRERIA A C C U S A T I O N
14	680 Evergreen Lane, Apt. 3 Port Hueneme, California 93041
15	Registered Nurse License No. 655943
16	Respondent.
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18	D. DEVE
19	PARTIES 1. D. D. H. M. F. D. D. W. G. D. L. L. W. H. L. A. Constitute and the inches
20	1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
21	official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
22	Department of Consumer Affairs.
23	Registered Nurse License
24	2. On or about April 11, 2005, the Board issued Registered Nurse License Number
25	655943 to Barbara Jimenez Duram Ferreria, also known as Barbara Jimenez Ferreria
26	("Respondent"). The registered nurse license was in full force and effect at all times relevant to
27	the charges brought herein and expired on February 28, 2009.
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STATUTORY PROVISIONS

- 3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.
- 5. Code section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
 - 6. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct, which includes, but is not limited to, the following:
- (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

REGULATORY PROVISION

7. California Code of Regulations, title 16, section 1443, states:

"As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5."

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

BACKGROUND

COST RECOVERY

9. On or about September 24, 2005, H.P. was a 20 year-old patient admitted to Community Memorial Hospital of San Buenaventure, Ventura, California, for seizure activity. H.P. suffered from severe cerebral palsy with spastic quadriplegia, severe mental retardation, and severe scoliosis. Although H.P. was an adult, she was only 52 inches tall and weighed only 40 pounds. After reviewing the morning lab results for H.P., Respondent contacted the hospitalist on duty to report that that H.P.'s potassium level was low (2.9). Respondent did not provide critical information to physician such as the weight of the patient. Respondent was given a physician's order to administer 40 mEq of potassium via nasogastric tube every 1 hour times 4 and then repeat the lab to check the potassium levels. Respondent administered the medication as ordered. At approximately 1600 hours, in the presence of her father, the patient suffered a sudden seizure and stopped breathing. All attempts to resuscitate H.P. were unsuccessful. A lab test taken at 1647 showed a critical potassium level of 9.6.

FIRST CAUSE FOR DISCIPLINE

(Incompetence)

- 10. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about September 26, 2005, while on duty as a registered nurse at Community Memorial Hospital of San Buenaventure, Ventura, California and caring for patient H.P., Respondent committed acts constituting incompetence as defined in California Code of Regulations, title 16, section 1443, as follows:
- a. Respondent failed to provide critical information to the ordering physician at the time the order for potassium was obtained, i.e., that although the patient was an adult, she was not of average size or weight for her age.

1	b. Respondent failed to question the dosage which, at 40 mEq every hour for 4 hours, is
2	too high even for an adult of average height and weight.
3	SECOND CAUSE FOR DISCIPLINE
4	11. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a), on
5	the grounds of unprofessional conduct, as more particularly set forth in paragraph 10,
6	subparagraphs a and b, above.
7	<u>PRAYER</u>
8	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9	and that following the hearing, the Board of Registered Nursing issue a decision:
10	1. Revoking or suspending Registered Nurse License Number 655943, issued to Barbara
11	Jimenez Duram Ferreria, also known as Barbara Jimenez Ferreria;
12	2. Ordering Barbara Jimenez Duram Ferreria, also known as Barbara Jimenez Ferreria
13	to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement
14	of this case, pursuant to Business and Professions Code section 125.3; and,
15	3. Taking such other and further action as deemed necessary and proper.
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18	DATED: 8/28/09 Louise R. Bailey
19	LOUISE R. BAILEY M.Ed., RN Interim Executive Officer
20	Board of Registered Nursing Department of Consumer Affairs
21	State of California Complainant
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Accusation